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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

AUG 04 2004

at 2 o'clock and 00 min. M
WALTER A.Y.H. CHINN, CLERK

Attorneys for Plaintiff
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,) CR. NO. _____
)
Plaintiff,) INDICTMENT
)
vs.) [18 U.S.C. §§ 1344, 1957, and
) 1001]
JOHN G. PHELPS,)
)
Defendant.)
_____)

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INDICTMENT

The Grand Jury Charges that:

COUNT 1

Introduction

At all times material to this Indictment:

1. Defendant John G. Phelps ("Phelps") conducted a construction business under the name Global Consultants & Coating ("Global").

2. Global performed work as a subcontractor for a company referred to in this Indictment as OCI.

3. Capital Resource Partners Inc. was a California company engaged in the business of purchasing account receivables from a client in return for advancing a lump sum payment to the client.

4. On or about January 8, 2003, Global and Capital Resource Partners Inc. entered into a "Factoring and Security Agreement." In late January, 2004, Global and Capital Partners Inc. entered into a "Settlement Agreement, Mutual Releases and Affirmation of Assignment and Security Interests." On January 28, 2004, Phelps signed a letter to OCI, stating, in part, that "The purpose of this letter is to confirm to you that the assignment of my proceeds to CRP [Capital Resource Partners Inc.] is still in effect and shall remain in effect until the payment is actually made to CRP [Capital Resource Partners Inc.] of the outstanding receivable sum of \$61,322."

5. Bank of Hawaii (BOH) was a financial institution whose deposits were insured by the Federal Deposit Insurance Corporation (FDIC).

Scheme and Artifice to Defraud

6. From a precise date unknown to the grand jury, but by January 28, 2004, and continuing through March 1, 2004 and thereafter, in the District of Hawaii, JOHN G. PHELPS did

knowingly execute, and attempt to execute, a scheme and artifice to defraud BOH, a federally chartered and insured financial institution, and to obtain money, funds and credits owned by and under the custody and control of BOH, by means of false and fraudulent pretenses, representations, and omissions of material facts, all as more fully set forth below.

a. On or about January 30, 2004, Phelps obtained from OCI a check payable to "GLOBAL CONSULTANTS & COATINGS and CAPITAL RESOURCE PARTNERS" in the sum of \$17,100.21. Phelps knew and understood, pursuant to his agreement with Capital Resource Partners Inc., that he was to provide this check to Capital Resource Partners Inc. as a receivable owed to them.

b. On or about February 19, 2004, Phelps registered the partnership name "Capital Resource Partners" with the State of Hawaii Department of Commerce and Consumer Affairs, with himself and his wife listed as partners.

c. On or about February 25, 2004, Phelps opened business checking account no. 0002-863278 at BOH under the name "Capital Resource Partners."

d. On or about February 26, 2004, the OCI check payable to "GLOBAL CONSULTANTS & COATINGS and CAPITAL RESOURCE PARTNERS" in the sum of \$17,100.21 was deposited into "Capital Resource Partners" business checking account no. 0002-863278 at

BOH. The back of the check was endorsed, in part, with a stamp that read "Capital Resource Partners."

e. Capital Resource Partners Inc. did not authorize Phelps to deposit the OCI check in the sum of \$17,100.21 into the BOH account.

f. By virtue of the foregoing scheme and artifice to defraud, BOH ultimately suffered a loss of approximately \$16,926.

7. On or February 26, 2004, in the District of Hawaii, JOHN G. PHELPS did knowingly execute, and attempt to execute, the aforesaid scheme and artifice to defraud BOH by depositing the OCI check in the amount of \$17,100.21 into BOH business checking account no. 0002-863278, with the false and fraudulent endorsement of "Capital Resource Partners" stamped on the back of the check.

All in violation of Title 18, United States Code, Section 1344.

COUNT 2

On or about February 27, 2004, in the District of Hawaii, defendant JOHN G. PHELPS knowingly engaged and attempted to engage in a monetary transaction by, through and to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000, that is, the purchase of a Bank of Hawaii cashier's check made

statements and entries, that is, defendant caused to be presented to the United States Army Corps of Engineers a cost for subcontractor work that was inflated over the true cost for the subcontractor work by approximately \$13,548.

All in violation of Title 18, United States Code, Section 1001(a)(3).

COUNT 5

On or about March 12, 2004, in the District of Hawaii, defendant JOHN G. PHELPS, in a matter within the jurisdiction of the United States Army Corps of Engineers, an agency of the executive branch of the United States, did knowingly and willfully make and use false documents, knowing the documents contained material false, fictitious, and fraudulent statements and entries, that is, defendant caused to be presented to the United States Army Corps of Engineers a cost for subcontractor work that was inflated over the true cost for the subcontractor work by approximately \$674.

All in violation of Title 18, United States Code, Section 1001(a)(3).

Sentencing Allegations

1. As to all counts of the indictment, the loss exceeded \$30,000.
2. The defendant, JOHN G. PHELPS, committed the offenses set forth in this indictment while released on bail under Chapter 207

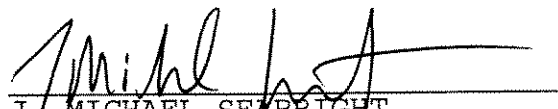
of Title 18, United States Code, and in violation of Title 18,
United States Code, section 3147.

DATED: August 4, 2004, at Honolulu, Hawaii.

A TRUE BILL

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FOREPERSON, GRAND JURY


J. MICHAEL SEABRIGHT
Assistant U.S. Attorney

United States v. John G. Phelps
Cr. No. _____
"Indictment"